

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 490 of 1997

to

FIRST APPEAL No 507 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

BHAMBI PUNJABHAI MAGABHAI

Appearance:

MR PG DESAI, GOVERNMENT PLEADER for Appellants in FA

Nos. 490/97 to 499/97.

H.N.DEVANI, ASST.G.P. for Appellants in FA
Nos.500/97 to 503/97.

MR SJ DAVE, ASST.G.P. for Appellants in Fa Nos.
504/97 to 507/97.

SERVED for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT and
MR.JUSTICE C.K.BUCH

Date of decision: 09/02/98

ORAL JUDGEMENT (PER ; Y.B.BHATT, J)

These are appeals filed by the State of Gujarat under Sec.54 of the Land Acquisition Act read with Sec.96 of the Civil Procedure Code, challenging the common judgment and awards passed by the Reference Court under Sec.18 of the Land Acq. Act.

2. We have heard the ld. counsel for the appellants and read the documents to which the ld. counsel has drawn our attention.

3. The impugned judgment, taken in its overall perspective, is in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, conclusions drawn therefrom and the findings of fact recorded.

4. We may note that the Reference Court has taken into consideration another decision in a group of Land Reference Cases given by the cognate Court, in respect of similar land of the adjoining village, determining the market value of irrigated land at Rs. 678/- per Are and for non-irrigated land at Rs. 468/- per Are. This is not the sole consideration for determining the market value on the part of the Reference Court in the instant group. This aforesaid judgment in cognate group of Land Reference Cases has merely been treated as a comparable instance.

5. The Reference Court was also conscious of the fact that the date of Sec.4 notification in the instant group of appeals was 24.7.1980 whereas the corresponding date in the cognate group of Land Reference Cases was 27.5.1982, that is to say, of a subsequent date. However, the Reference Court not only took into account various other relevant factors such as difference between Dolpur (concerned with the present acquisition) and Sabli, a town concerned in the aforesaid reference. To our mind, the Reference Court has, therefore, taken into consideration, all relevant factors including the relative and comparative state of development and relative fertility of two villages etc. After taking into consideration this relevant factor, the Reference Court in the instant group of cases, has determined the market value for irrigated land at Rs. 600/- per Are (as against Rs. 678/- in cognate group) and valued non-irrigated land at Rs. 370/- per Are (as against Rs.468/- per Are for the similar land in the cognate group). Thus, in sum and substance, therefore, we are

not inclined to interfere with determination of the market value on the part of the Reference Court.

We may also add that so far as the cognate group of Land Reference Cases are concerned, which have been considered as relevant for comparison in the instant group of cases, have been approved by us in appeals arising from that group of Land Reference Cases, that is to say, we have confirmed the valuation at Rs. 678/- and Rs. 468/- per Are for irrigated and non-irrigated lands respectively. For these reasons, we find that the determination of the market value in the instant group of cases requires to be upheld.

A point was sought to be urged by the ld. counsel for the appellant that separate compensation for wells could not have been awarded particularly in those instances where land have been valued as irrigated land. However, on a close reading of the judgment in question, we find that although the Reference Court has determined the value of the relevant wells at Rs. 10,000/- each, this was only an observation in the context of the valuation report placed on record by the claimants. In fact, the Reference Court has not awarded any compensation separately for wells since according to the Reference Court, the claimant had not made any claim for compensation under this head. Since no separate compensation has been awarded for the wells, this ground sought to be raised by the ld. counsel for the appellant is merely hypothetical which need not detain us any further.

6. No other contentions have been raised.

7. As a result therefore, there is no substance in this group of appeals and, they are accordingly dismissed. No order as to costs.

8. Registry is directed to place a copy of this judgment in each of the First Appeals.

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